

FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
REBECCA ANN GORDEE, LPN,	:	LS9606241NUR
RESPONDENT.	:	

The State of Wisconsin, Board of Nursing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Board of Nursing.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs, and mail a copy thereof to respondent or his or her representative, within 15 days of this decision.

Respondent or his or her representative shall mail any objections to the affidavit of costs filed pursuant to the foregoing paragraph within 30 days of this decision, and mail a copy thereof to the Division of Enforcement and Administrative Law Judge.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 12th day of September 1996.

Wendy B. Burns, CRNA

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS
AGAINST
REBECCA ANN GORDEE, L.P.N.,
RESPONDENT.

PROPOSED DECISION
Case No. LS-9606241-NUR
(96 NUR 076)

PARTIES

The parties in this matter under section 227.44 of the Statutes and section RL 2.037 of the Wisconsin Administrative Code, and for purposes of review under sec. 227.53, Stats. are:

Complainant:

Division of Enforcement
Department of Regulation and Licensing
Madison, WI 53708-8935

Respondent:

Rebecca Ann Gordee
3157 Muir Field Road #55
Madison, WI 53719

Disciplinary Authority:

Board of Nursing
1400 East Washington Ave.
Madison, WI 53703

PROCEDURAL HISTORY

A. This case was initiated by the filing of a complaint with the Board of Nursing on June 24, 1996. A disciplinary proceeding (hearing) was scheduled for July 17, 1996. Notice of Hearing was prepared by the Division of Enforcement of the Department of Regulation and Licensing and sent by certified mail on June 24, 1996 to Rebecca Ann Gordee at her last-known address on file with the department. The certified mailing was accepted by someone other than Ms. Gordee at that address on June 25, 1996.

B. No Answer was filed by Ms. Gordee.

C. All time limits and notice and service requirements having been met, the disciplinary proceeding was held as scheduled on July 17, 1996. Ms. Gordee did not appear. The Board of Nursing was represented by Attorney Steven Gloe of the Department's Division of Enforcement. Mr. Gloe moved that Ms. Gordee be found in default under sec. RL 2.14, Wis. Admin. Code, for failing to file an answer and failing to appear at the hearing, and the motion was granted. The hearing was recorded. No transcript was prepared. The complaint and the testimony entered into evidence at the hearing form the basis for this Proposed Decision.

FINDINGS OF FACT

1. The respondent, Rebecca Ann Gordee, is a Practical Nurse licensed in the state of Wisconsin, under license number 29297, which she has held continuously since it was originally granted on December 9, 1987.
2. On exact dates unknown, but at least between March 5, 1996 and March 27, 1996, Ms. Gordee diverted hydromorphone, a schedule II narcotic, from her employer, the U.W. Hospital and Clinics, 600 Highland Ave., Madison, Wisconsin. Ms. Gordee stated to a person she knew to be a law enforcement officer that she diverted the hydromorphone for the purpose of reselling it.
3. Ms. Gordee has not cooperated with the board and the department in investigating alternatives to revocation in this matter.

CONCLUSIONS OF LAW

- I. The Board of Nursing has personal jurisdiction over Rebecca Ann Gordee, based on her holding a credential issued by the board. The board also has personal jurisdiction under sec. 801.04 (2), Stats., based on notice; notice to Ms. Gordee was satisfied by mailing the Notice of Hearing to the respondent's last-known address on file with the Department, under sec. RL 2.08, Wis. Admin. Code.
- II. The Board of Nursing is the legal authority responsible for issuing and controlling credentials for practical nurses, under ch. 441, Stats, and it has jurisdiction over the subject-matter of a complaint alleging unprofessional conduct, under sec. 15.08(5)(c), Stats., sec. 441.07, Stats., and ch. N 7, Wis. Admin. Code.
- III. Ms. Gordee is in default under sec. RL 2.14, Wis. Admin. Code, which means that the Board of Nursing may make findings of fact and enter a disciplinary order on the basis of the complaint and the evidence presented at the hearing.
- IV. The violation in Finding of Fact #2 constitutes unprofessional conduct under sec. N.7.04 (2), Wis. Admin. Code, and discipline is appropriate, under sec. 441.07 (1), Stats.

ORDER

THEREFORE, IT IS ORDERED that the license to practice as a Practical Nurse issued to Rebecca Ann Gordee is hereby revoked.

IT IS FURTHER ORDERED that Rebecca Ann Gordee pay the costs of this proceeding, as authorized by sec. 440.22 (2), Stats., and sec. RL 2.18, Wis. Admin. Code.

OPINION

This is a disciplinary proceeding conducted under the authority of ch. 227, Stats. and ch. RL 2, Wis. Admin. Code. The Division of Enforcement in the Department of Regulation and Licensing filed a complaint with the Board of Nursing alleging that the respondent, Rebecca Ann Gordee, obtained a controlled substance other than in the legitimate course of practice, specifically, that between March 5, 1996 and March 27, 1996, Ms. Gordee diverted hydromorphone, a schedule II narcotic, from her employer, the U.W. Hospital and Clinics, 600 Highland Ave., Madison, Wisconsin.

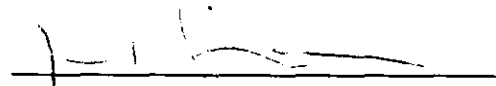
Although there has been no verified contact with Ms. Gordee in this disciplinary action, she is legally presumed to have received the complaint and the notice of hearing, because they were mailed to her last-known address. She did not file an answer to the complaint, and she did not appear for the hearing to contest the charge. Thus the charge in the complaint is deemed proven by the allegations in the complaint and by testimony in the hearing from Charles Flad, a detective with the U.W.-Madison Police Department. The charge of diverting a controlled substance was proven, and this offense is a violation of the rules of professional conduct for nurses under sec. N.7.04 (2), Wis. Admin. Code. If Ms. Gordee did not receive the complaint and notice of hearing (but she does receive this proposed decision), section RL 2.14 of the Wisconsin Administrative Code allows her to request relief from the board from the effect of her failure to respond, before the board enters an order or within a reasonable time thereafter.

Ms. Gordee's unprofessional conduct makes discipline appropriate. The purposes of professional discipline are (1) protecting the public from the individual practitioner, (2) deterring other practitioners from similar acts, and (3) rehabilitating the offender. Some restriction of Ms. Gordee's license is clearly necessary to protect the public (including herself and her employer) from any repetition of the actions which led to this action. Similarly, other practitioners should be aware -- as they can hardly fail to be already -- that dire consequences follow on any diversion of controlled substances. As to rehabilitation, Mr. Gloe stated in the hearing that the Board of Nursing attempts to work creatively with professionals who are willing to address a substance abuse problem, but Ms. Gordee did not appear or present any information about her motives and her current situation. If she had, a resolution short of revocation might have been possible, but in the absence of any assurances that her unprofessional actions in this case could be addressed through alternative means, the only practical discipline is revocation. I feel confident, even at this late date, that if Ms. Gordee were to respond during the period for objections and present information that her

actions were related to a substance abuse problem which could be addressed by any of the resources available to the board, the board would still consider alternatives to revocation.

The assessment of costs against a disciplined professional is authorized by sec. 440.22(2), Wis. Stats. and sec. RL 2.18, Wis. Admin. Code, and in a case such as this where a respondent has not cooperated with the department's efforts to investigate the case, or possibly even to resolve the case short of a hearing, the imposition of costs is appropriate.

Dated and signed: July 17, 1996


John N. Schweitzer
Administrative Law Judge
Department of Regulation and Licensing

BEFORE THE STATE OF WISCONSIN
BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

REBECCA ANN GORDEE, LPN,
RESPONDENT.

AFFIDAVIT OF SERVICE

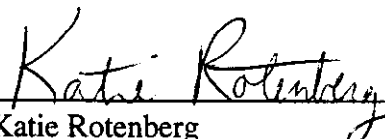
Katie Rotenberg, being first duly sworn on oath deposes and states that she is in the employ of the Department of Regulation and Licensing, and that on September 16, 1996, she served the following upon the respondent:

Final Decision and Order dated September 12, 1996, LS9606241NUR

by mailing a true and accurate copy of the above-described document, which is attached hereto, by certified mail with a return receipt requested in an envelope properly addressed to the above-named respondent at:

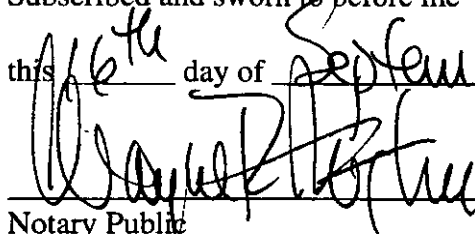
3157 Muir Field Road #55
Madison, WI 53719
Certified P 213 148 294

an address which appears in the files and records of the Board of Nursing as the respondent's last known address.


Katie Rotenberg
Department of Regulation and Licensing

Subscribed and sworn to before me

this 16th day of September, 1996.


Notary Public
Dane County, Wisconsin
My Commission is Permanent



State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Tommy G. Thompson
Governor

Marlene A. Cummings
Secretary

1400 E. WASHINGTON AVENUE
P O BOX 8935
MADISON, WISCONSIN 53708-8935
(608) 266-2112

September 17, 1996

REBECCA ANN GORDEE, L.P.N.
3157 MUIR FIELD ROAD #55
MADISON, WI 53719

RE: In The Matter of Disciplinary Proceedings Against Rebecca Ann Gordee, L.P.N.,
Respondent, LS9606241NUR, Assessment of Costs

Dear Ms. Gordee:

On September 12, 1996, the Board of Nursing issued an order involving your license to practice nursing. The order requires payment of the costs of the proceedings.

Enclosed please find the Affidavits of Costs of the Office of Board Legal Services and the Division of Enforcement in the above captioned matter. The total amount of the costs of the proceedings is \$211.77.

Under sec. RL 2.18, Wis. Adm. Code, objections to the affidavits of costs shall be filed in writing. Your objections must be received at the office of the Board of Nursing, Room 174, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, on or before October 12, 1996. After reviewing the objections, if any, the Board of Nursing will issue an Order Fixing Costs. Unless the board orders otherwise, payment of costs is due on November 11, 1996. Under sec. 440.23, Wis. Stats., the board may not restore or renew a credential until the holder has made payment to the department in the full amount assessed.

Thank you.

Sincerely,

Pamela A. Haack
Administrative Assistant
Office of Board Legal Services

Enclosures

cc: Board of Nursing
Department Monitor

Regulatory Boards

Accounting; Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors; Auctioneer; Barbering and Cosmetology; Chiropractic; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Psychology; Real Estate; Real Estate Appraisers; Social Workers, Marriage and Family Therapists and Professional Counselors; and Veterinary

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	ORDER FIXING COSTS
	:	Case #LS9606241NUR
REBECCA ANN GORDEE, L.P.N.,	:	
RESPONDENT.	:	

On September 12, 1996, the Board of Nursing filed its Final Decision and Order in the above-captioned matter by which the board ordered that pursuant to sec. 440.22, Wis. Stats., 100% of the costs of this proceeding be assessed against respondent. Pursuant to sec. RL 2.18 (4), Wis. Adm. Code, on or about August 23, 1996, the board received the *Affidavit of Costs* in the amount of \$178.91, filed by Attorney Steven M. Gloe. On or about July 17, 1996, the board received the *Affidavit of Costs of Office of Board Legal Services* in the amount of \$32.86, filed by Administrative Law Judge John N. Schweitzer.. The board considered the affidavits on November 8, 1996, and orders as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that pursuant to sec. 440.22, Wis. Stats., the costs of this proceeding in the amount of \$211.77, which is 100% of the costs set forth in the affidavits of costs of John N. Schweitzer and Steven M. Gloe, which are attached hereto and made a part hereof, are hereby assessed against Rebecca Ann Gordee, and shall be payable by him/her to the Department of Regulation and Licensing. **Failure of respondent to make payment on or before December 19, 1996, which is the deadline for payment established by the board, shall constitute a violation of the Order unless respondent petitions for and the board grants a different deadline.** Under sec. 440.22 (3), Wis. Stats., the department or board may not restore, renew or otherwise issue any credential to the respondent until respondent has made payment to the department in the full amount assessed.

To ensure that payments for assessed costs are correctly receipted, the attached "*Guidelines for Payment of Costs and/or Forfeitures*" should be enclosed with the payment.

Dated this 19 day of November, 19 96



Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935
(608)

TTY# (608) 267-2416 hearing or speech
TRS# 1-800-947-3529 impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On November 19, 1996, the Board of Nursing
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a
forfeiture.

The amount of the costs assessed is: \$211.77 Case #: LS9606241NUR

The amount of the forfeiture is: _____ Case # _____

Please submit a check or a money order in the amount of \$ 211.77

The costs and/or forfeitures are due: December 19, 1996

NAME: Rebecca Ann Gordee LICENSE NUMBER: 29297

STREET ADDRESS: 3157 Muir Field Road #55

CITY: Madison STATE: WI ZIP CODE: 53719

Check whether the payment is for costs or for a forfeiture or both:

X COSTS _____ FORFEITURE

Check whether the payment is for an individual license or an establishment license:

X INDIVIDUAL _____ ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

For Receipting Use Only

Make checks payable to:

**DEPARTMENT OF REGULATION AND LICENSING
1400 E. WASHINGTON AVE., ROOM 141
P.O. BOX 8935
MADISON, WI 53708-8935**

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

G:\BDLS\FM2145.DOC

Committed to Equal Opportunity in Employment and Licensing+

**STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING**

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS
AGAINST
REBECCA ANN GORDEE, L.P.N.,
RESPONDENT.

AFFIDAVIT OF COSTS
Case No. LS-9606241-NUR
(96 NUR 076)

John N. Schweitzer affirms the following before a notary public for use in this action, subject to the penalties for perjury in sec. 946.31, Wis. Stats.:

1. I am an attorney licensed to practice law in the State of Wisconsin, and am employed by the Wisconsin Department of Regulation and Licensing, Office of Board Legal Services.
2. In the course of my employment, I was assigned as the administrative law judge in the above-captioned matter.
3. The expenses for the Office of Board Legal Services are set out below:

a. Administrative Law Judge Expense @ \$26.29/hour.

6-24-96 Receive complaint, read, open file	--
7-1-96 Prepare proposed decision	1/2 hr.
7-17-96 Conduct hearing	1/4 hr.
7-17-96 Complete proposed decision	1 1/2 hrs.
Total:	2 1/4 hrs.

Total allocable costs for Office of Board Legal Services = \$32.86



John N. Schweitzer
Administrative Law Judge

Sworn to and signed before me this 17th day of July, 1996.


_____, Notary Public, State of Wisconsin.

My commission is permanent.

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

REBECCA ANN GORDEE,
RESPONDENT.

:
:
:
:
:

AFFIDAVIT OF COSTS
96 NUR 076

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Steven M. Gloe, being duly sworn, deposes and states as follows:

1. That I am an attorney licensed in the state of Wisconsin and is employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement:
2. That in the course of those duties I was assigned as a prosecutor in the above-captioned matter; and
3. That set out below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.

PROSECUTING ATTORNEY EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
June 20, 1996	Case conference, Review file, Draft Notice of Hearing and Complaint; Obtain Hearing Date	1 hour 00 minutes
July 17, 1996	Hearing preparation; attend Hearing	1 hour 15 minutes
TOTAL HOURS		2 Hours 15 Min.

Total attorney expense for 2 hours and 15 minutes at
\$41.00 per hour (based upon average salary and benefits
for Division of Enforcement attorneys) equals:

\$92.25

INVESTIGATOR EXPENSE FOR RALPH DRAEGER

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
May 17, 1996	Review file, Witness contact	0 hour 25 minutes
May 22, 1996	Review mail, Witness contacts	1 hour
May 23, 1996	Witness contact	1 hour
May 28, 1996	Witness contact, Letter drafted and sent	0 hour 30 minutes
June 4, 1996	Witness contacts	0 hour 15 minutes
June 5, 1996	Memos dictated	0 hour 20 minutes
June 14, 1996	Witness contacts	0 hour 20 minutes
June 19, 1996	Witness contact	0 hour 20 minutes
July 15, 1996	Witness contacts	0 hour 10 minutes

TOTAL HOURS

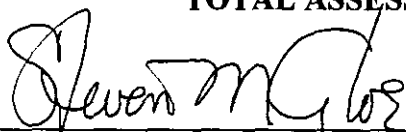
4 Hours 20 Min.

Total investigator expense for 4 hours and 20 minutes at
\$20.00 per hour (based upon average salary and benefits
for Division of Enforcement investigators) equals:

\$86.66

TOTAL ASSESSABLE COSTS

\$178.91



Steven M. Gloe, Attorney

Subscribed and sworn to before me this

23th day of August, 1996



Notary Public

My Commission is permanent.

G:\HBX\GORDCOST.DOC

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN BOARD OF NURSING

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

September 16, 1996

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)